

Practitioner's Docket No. MSU 4.1-528

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Murphy, and Ruth A. Vrable

OCT 09 2002
PATENTS & TRADEMARK OFFICE
Application No.: 09 / 669,833 Group No.: 1645
Filed: September 26, 2000 Examiner: P. Baskar, Ph.D.
For: VACCINE TO CONTROL EQUINE PROTOZOAL MYELOENCEPHALITIS
IN HORSES

*Patent No.: Issue Date:
Reexamination No.:

RECEIVED

*NOTE: Preferably also insert inventor's name and invention title.
Assistant Commissioner for Patents
Washington, D.C. 20231

OCT 16 2002

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**TERMINAL DISCLAIMER TO OBLIGATE
A DOUBLE PATENTING REJECTION (37 C.F.R. § 1.321(c))**

Identification of Person(s) Making This Disclaimer

I, Ian C. McLeod

(type or print names of all inventors or assigns or name of attorney signing disclaimer)

(a) represent that I am

an inventor (applicant) of this invention.
 an assignee of this invention.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

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* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Terminal Disclaimer to Obviate a Double Patenting Rejection [9-4]—page 1 of 5)

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WARNING: "If the patent or patent application is assigned to an organization, such as a corporation, partnership, university, [g]overnment agency or similar entity, and the disclaimer is signed by the assignee, the assignee must comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61 at 56, § 1490, M.P.E.P., 7th Edition.

- a representative authorized to sign on behalf of the assignee identified below.
- A statement under 37 C.F.R. § 3.73(b) is attached.

WARNING: See the above "WARNING."

- the attorney of record for this invention.

NOTE: The rules "permit an attorney or agent of record to sign a terminal disclaimer without the need to comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61, at 56. See also § 1490, M.P.E.P., 7th Edition.

IDENTITY OF ASSIGNEE AND TITLE OF DISCLAIMER *(if applicable)*

The assignee is

Name of assignee _____

Address of assignee _____

Title of disclaimant authorized to sign on behalf of assignee _____

EXTENT OF DISCLAIMER'S INTEREST

The extent of the interest in this invention that the disclaimant owns is:

- the whole of this invention.
- a sectional interest in this invention, as follows:

NOTE: Disclaimers from the whole interest must be filed.

(state the exact interest of the disclaimant)

The disclaimant(s) is/are:

- the applicant(s)
- the assignee(s)

RECORDAL OF ASSIGNMENT IN PTO
(if applicable)

The assignment was recorded on _____
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Frame _____

Authorization for recordal of the assignment is separately attached.

A separate "ASSIGNMENT (DOCUMENT) COVER SHEET" or
 FORM PTO 1595 is also attached.

ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION
(if applicable)

Attached is a STATEMENT UNDER 37 C.F.R. § 3.73(b) establishing the right of the assignee to take action in this case.

NOTE: Insert the appropriate page 3.

(Terminal Disclaimer to Obviate a Double Patenting Rejection—(Provisional Obviousness-Type Double Patenting Rejection Over A Pending Application) [9-4]— page 3 of 5)

DISCLAIMER
(Obviousness-Type Double Patenting Rejection Over A Prior Patent)

Petitioner(s) hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of Patent No. 6,153,394 as presently shortened by any terminal disclaimer. Petitioner(s) hereby agree(s) that any patent so granted on the instant application shall be enforceable only for and during such period that it and the above-listed patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the patent forming the basis of the double patenting rejection, namely, Patent No.: 6,153,394, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

DISCLAIMER FEE (37 C.F.R. § 1.20(d))

- Other than a small entity — fee \$110.00
- Small entity — fee \$55.00
 - Small entity statement attached
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on _____ (Date)

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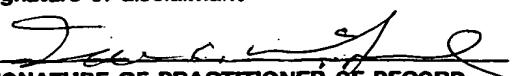
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SIGNATURE OF PRACTITIONER OF RECORD

Ian C. McLeod
(type or print name of practitioner)

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